

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MARIE JOSEPH
2054 CHRIS COURT
UNION, KENTUCKY 41091

Plaintiff,

v.

RONALD JOSEPH
1116 LEAFTREE COURT
CINCINNATI, OHIO 45208

Defendant.

Case No. 1:16-cv-00465TSB

Judge Timothy S. Black

RULE 26(f) REPORT OF PARTIES

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on June 2, 2016, and was attended by:

Kevin L. Murphy, counsel for plaintiff(s) Marie Joseph

_____, counsel for plaintiff(s) _____

_____, counsel for plaintiff(s) _____

James E. Burke, counsel for defendant(s) Ronald Joseph

James R. Matthews, counsel for defendant(s) Ronald Joseph

Ali Razzaghi, counsel for defendant(s) Ronald Joseph

2. The parties:

_____ have provided the pre-discovery disclosures required by Fed. R. Civ. P. 26(a)(1), including a medical package (if applicable).

X will exchange such disclosures by June 16, 2016.

_____ are exempt from disclosure under Fed. R. Civ. P. 26(a)(1)(E).

3. The parties:

_____ unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

X do not unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636 (c). (Agreed by both parties.)

_____ unanimously give contingent consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c), for trial purposes only, in the event that the assigned District Judge is unavailable on the date set for trial (e.g., because of other trial settings, civil or criminal).

4. Recommended cut-off date for filing of motions directed to the pleadings:

Plaintiff—October 1, 2016; Defendant—July 29, 2016

5. Recommended cut-off date for filing any motion to amend the pleadings and/or to add additional parties: Plaintiff--without leave by August 15, 2016;

Defendant requests June 30, 2016

6. Recommended discovery plan:

- a. Describe the subjects on which discovery is to be sought and the nature, extent and scope of discovery that each party needs to: (1) make a settlement evaluation,
(2) prepare for case dispositive motions and (3) prepare for trial:

See attached Exhibit A for Plaintiff. Defendant proposes that discovery be

taken on all claims and defenses raised in the Complaint; answer and

affirmative Defenses. Defendant states that discovery is likely to include

written discovery, exchange of documents, and depositions.

b. What changes should be made, if any, in the limitations on discovery imposed under the Federal Rules of Civil Procedure or the local rules of this Court, including the limitations to 40 interrogatories/requests for admissions and the limitation of 10 depositions, each lasting no more than one day consisting of seven (7) hours?

See attached Exhibit B for Plaintiff. Defendant proposes no changes be

made to the limitations on discovery imposed under the Federal Rules.

c. Additional recommended limitations on discovery:

None for Plaintiff. Defendant proposes that discovery be limited to

Columbia Development Corp., that discovery should not be allowed into other entities, events that occurred more than four years before the Complaint was filed, or into claims for which Plaintiff does not have standing to assert.

d. Recommended date for disclosure of lay witnesses.

January 16, 2017

e. Describe the areas in which expert testimony is expected and indicate whether each expert has been or will be specifically retained within the meaning of Fed. R.Civ. P. 26(a)(2).

Plaintiff expects to hire a forensic accountant for damages; a real estate

appraiser and a dealership appraiser to prove the value of real estate/car

dealerships and damages; an appropriate appraiser to value the Florida

condo and dock slips, along with the value of several boats in several states.

Expert testimony may be necessary on the issue of a fraudulent POA.

Handwriting expert on the issue of fraudulent signatures.

Defendant does not believe that many of Plaintiff's proposed experts are relevant to the issues raised in the Complaint, Answer, and Affirmative Defenses, but will retain rebuttal experts as appropriate.

f. Recommended date for making primary expert designations:

Plaintiff recommends January 2, 2017;

Defendant recommends October 31, 2016.

g. Recommended date for making rebuttal expert designations:

Plaintiff recommends February 10, 2017;

Defendant recommends November 30, 2016.

h. The parties have electronically stored information in the following formats:

N/A for Plaintiff. Defendant submits that the parties have electronically stored information in emails, PDFs, and native documents maintained on various personal computers.

The case presents the following issues relating to disclosure or discovery of electronically stored information, including the form or forms in which it should be produced:

At this time, Plaintiff is unable to determine the full extent of ESI issues in

that Plaintiff is not aware of Defendant's technology configuration at the

numerous places of business he owns, operates, or controls, and how or

where the shareholder and financial records are maintained. However,

Plaintiff contemplates that the servers, archive, native emails and microfiche

may be issues for all entities listed on Exhibit C. Defendant submits
that a protective order will need to be entered before any confidential
information will be disclosed.

i. The case presents the following issues relating to claims of **privilege or of protection as trial preparation materials**:

The Keating firm has participated in the formation of corporations, LLCs,
and other legal documents for Defendant's businesses and attended certain
board and shareholder meetings, none of which is privileged. Certain
lawyers are named as trustees in various real property transactions and
transfers. Keating has discoverable documents and information in its
possession. Defendant submits that the protective order should include a
clawback agreement consistent with Federal Rule 26(b)(5)(B). The party
claiming that information produced is subject to a claim of privilege or of
protection as trial—preparation material should notify the other party
in writing.

Have the parties agreed on a procedure to assert such claims **AFTER**
production?

 X No

 Yes

 Yes, and the parties ask that the Court include
their agreement in an order.

j. Recommended discovery cut-off date: Plaintiff recommends March 1, 2017;

Defendant recommends December 23, 2016.

6. Recommended dispositive motion date: Plaintiff recommends April 1, 2017;

Defendant recommends January 15, 2017.

7. Recommended date for status conference (if any): October 1, 2016

8. Suggestions as to type and timing of efforts at Alternative Dispute Resolution:

Plaintiff will attend mediation after receiving a complete response to written

discovery, after deposing the Defendant, his sons, his current and

former CFOs, and certain other key witnesses, such as board members.

Plaintiff would like to tentatively set a mediation date in late-September

or early October 2016. The Defendant is willing to mediate, but thinks it

would be productive to do so in November.

9. Recommended date for a final pretrial conference: April 19, 2017

10. Has a settlement demand been made? Yes A response? No

Date by which a settlement demand can be made: See above.

Date by which a response can be made: _____

11. Other matters pertinent to scheduling or management of this litigation:

Plaintiff states that central to this minority shareholder oppression action are the

nature and extent of direct or indirect transfers directed or made by Defendant.

These transfers have had the effect of limiting or reducing the value of

companies in which Marie has ownership interests and the value of her share

ownership in these companies. Since its inception, Columbia has morphed
from one entity into at least four separate entities and eight separate
fictitious names, doing business under Columbia and frequently doing
business under the rubric of the “Joseph Auto Group.” The Defendant has
also created 15 different corporate structures with numerous entities and
fictitious names. Discovery is necessary on all entities owned and/or
controlled by Defendant, not just Columbia.
The Defendant submits that issues of standing and the statute of limitations will

determine the scope of this litigation.

Signatures:

/s/ Kevin L. Murphy

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CERTIFICATE OF SERVICE

I certify that on June 6, 2016, I electronically filed this Answer with the Clerk of the Court using the CM/ECF system, which will send notice to all counsel of record.

/s/ Kevin L. Murphy